

# LOS ANGELES COUNTY DISTRICT ATTORNEY CHARGE EVALUATION WORKSHEET

Page 1 of 6

<b>FELONY</b>  <b>X MISDEMEANOR</b>	<b>AGENCY NAME</b> LASD - INTERNAL CRIMINAL <b>AGENCY FILE NO. (DR OR URN)</b> 912-00013-2003-441	<b>DA CASE NO.</b> 32551911 <b>DA OFFICE CODE</b> J.S.I.D. #12-0606R	<b>DATE</b> 12/05/2012 <b>VICTIM ASSISTANCE REFERRAL</b> <input type="checkbox"/> YES - NOTIFY VWAP <input type="checkbox"/> NO
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SUSP NO.	SUSPECT	CHARGES			
		CODE	SECTION	OFFENSE DATE	REASON CODE
1	NAME (LAST, FIRST MIDDLE)) ELEY, JEFF DOB 07/06/1964 SEX (M/F) M BOOKING NO. VIP -- Yes X No	VC	40500(D)	11/23/2012	H
	Gang Member Name of Gang Victim Name: Victim DOB:	Victim Gang Member Name of Gang: Victim DOB:			
2	NAME (LAST, FIRST MIDDLE)) DOB SEX (M/F) BOOKING NO. VIP -- Yes -- No				
	Gang Member Name of Gang Victim Name: Victim DOB:	Victim Gang Member Name of Gang: Victim DOB:			
3	NAME (LAST, FIRST MIDDLE)) DOB SEX (M/F) BOOKING NO. VIP -- Yes -- No				
	Gang Member Name of Gang Victim Name: Victim DOB:	Victim Gang Member Name of Gang: Victim DOB:			

  

**Comments**  
 SEE ATTACHED.

  

<b>COMPLAINT DEPUTY (print)</b> RENEE CHANG/ap	<b>COMPLAINT DEPUTY (SIGNATURE)</b> 	<b>STATE BAR NO.</b> 174474	<b>REVIEWING DEPUTY (SIGNATURE)</b> 
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I have conveyed all relevant information to the above-named Deputy District Attorney to be used in consideration of a filing decision.

FILING OFFICER (PRINT): EDWARD WINSLOW FILING OFFICER (SIGNATURE): mailed 12/5/12 SERIAL #: 00001

<b>DEPARTMENT OF JUSTICE REASON CODES (FORM 8715)</b>  A. Lack of Corpus B. Lack of Sufficient Evidence C. Inadmissible Search/Seizure	D. Victim Unavailable/Declines To Testify E. Witness Unavailable/Declines to Testify F. Combined with Other Counts/Cases G. Interest of Justice	H. Other (indicate the reason in Comments section) I. Referred to Non-California Jurisdiction J. Deferred for Revocation of Parole K. Further Investigation	L. Prosecutor Prefiling Deferral <b><u>DISTRICT ATTORNEY'S REASON CODES</u></b> M. Probation Violation filed in lieu of N. Referred to City Attorney for Misdemeanor Consideration
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LAST NAME: ELEY

FIRST NAME: JEFF

DA CASE NUMBER: 32551911



The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the allegation that San Fernando Police Department (SFPD) Lieutenant Jeff Eley unlawfully altered, concealed, modified, nullified, or destroyed a traffic citation before it was filed with the magistrate in violation of Vehicle Code section 40500(d). For the reasons set forth below, this office declines to initiate criminal proceedings.

The following analysis is based on reports prepared by the Los Angeles Sheriff's Department (LASD), submitted to this office by Sergeant Edward Winslow, Internal Criminal Investigations Bureau (ICIB). Eley's administratively compelled statement, if one exists, was not reviewed.

## SUMMARY OF FACTS

On November 23, 2011, at approximately 8:15 a.m., San Fernando Police Department (SFPD) Officer Saul Esquivel was on patrol when he observed a black SUV fail to stop at a posted stop sign.<sup>1</sup> He conducted a traffic stop and approached the driver of the SUV, Fred Flores.<sup>2</sup> Flores became belligerent as Esquivel proceeded to issue him a traffic citation. Flores told Esquivel that he would call "Chief Eley" to take care of the citation.<sup>3</sup> As Esquivel was writing the citation, Flores got out of his car, rummaged through items on his back seat, and appeared to be looking through numerous business cards. When Esquivel handed Flores the citation, Flores signed it and stated that it was "bullshit." When Esquivel attempted to give Flores his copy of the citation, Flores refused to take it. Esquivel placed it on Flores' dashboard and advised Flores that he was required to appear in court on January 4, 2012, as indicated on the citation. As Esquivel returned to his patrol car, he realized that he had forgotten to return Flores' driver's license. Flores stepped out of his car and walked toward Esquivel, calling him an "asshole cop," "dickhead," and "cocksucker." Esquivel returned Flores' driver's license and walked back to his patrol vehicle.

Because Flores told Esquivel that he was an aide to Howard Berman, Esquivel immediately called his Watch Commander, Sergeant Anthony Vairo, to notify him of what had occurred. Vairo instructed Esquivel to report to the station. Vairo notified acting Chief Eley. As Vairo was advising Eley of what had occurred, Eley's cell phone rang. Eley indicated that it was Flores and stepped away to take the call.<sup>4</sup>

Shortly thereafter, Esquivel returned to the station and met with Vairo. Eley walked up to Esquivel and asked to see the citation. As Eley looked at the citation, he stated, "Oh

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<sup>1</sup> Esquivel issued four other citations earlier that morning at the same intersection for the same reason.

<sup>2</sup> Flores is an aide to United States Representative Howard Berman of California's 28<sup>th</sup> Congressional District. The City of San Fernando is a part of Berman's district. Over the years, Berman has assisted the SFPD in obtaining federal funding. Flores was the assigned liaison between Berman and the SFPD.

<sup>3</sup> Jeff Eley was a Lieutenant and the acting Chief of the SFPD at the time of the traffic stop.

<sup>4</sup> Eley's cell phone records indicate that he received a call from Flores at 8:37 a.m. which lasted three minutes.



my God, do you know who this is?" Esquivel responded that he did not know who Flores was, but his behavior during the traffic stop was unacceptable. Eley walked toward his office with the citation and began calling Flores on his cell phone.<sup>5</sup> Esquivel never saw the original citation again, nor did he have any further conversation with Eley regarding this matter.<sup>6</sup>

### You Tube Video

On January 5, 2012, one day after Flores was supposed to appear in court, an anonymous source posted a video of the traffic stop on You Tube. The video was taken from the dashboard camera that was mounted in Esquivel's patrol car.<sup>7</sup> As the video of the traffic stop plays, the following text runs across the screen:

- Deception
- Abuse
- Corruption
- Where good cops get sabotaged by bad cops
- Traffic Stop November 23, 2011 Time: 8:18 a.m.
- A good officer issued this driver a traffic ticket for a stop sign violation
- The driver was not happy
- The driver called the officer a cocksucker
- The driver assured the officer he would one way or the other take care of the ticket with Acting Chief Jeff Eley
- The driver's name is Fred Flores and he works for Congressman Howard Berman
- Within minutes after being pulled over, Fred Flores spoke to Acting Chief Eley, Acting Chief Eley then broke the law and made the ticket disappear
- Four others had gotten a ticket for the same stop sign that morning
- Sorry Charles Walter Nancy Dominguez de Garrido Veronica Paloz and Pedro Gonzalez
- Acting Chief Eley only breaks the law with people he can trust
- In 2011 POA President Irwin Rosenberg and Acting Chief Jeff Eley convinced the San Fernando POA membership to unanimously endorse Howard Berman for Congress for all the

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<sup>5</sup> Eley's cell phone records indicate that Eley called Flores at 8:52 a.m. The call lasted 11 minutes.

<sup>6</sup> SFPD traffic citations consist of an original and two copies. The original citation is green and the copies are white and yellow. The white copy is given to the motorist. The original citation and yellow copy are retained by the issuing officer until they are processed for court. Esquivel gave Eley the original and yellow copy of the citation.

<sup>7</sup> Another SFPD police officer, Sergeant Alvaro Castellon, admitted to making a copy of the video from the dashboard camera, but he denied posting it on You Tube.



favors he has done and grant money he has secured for the San Fernando Police.

Howard Berman

When Berman became aware of the You Tube video, he spoke with Flores. Flores told Berman that when he was stopped, he provided Officer Esquivel his driver's license and a California Department of Motor Vehicles (DMV) change of address card. When Esquivel wrote the citation, he refused to write in Flores' new address because the change of address card was not stapled to his license. Flores was upset that Esquivel refused to acknowledge his change of address, so he called Eley to vent his frustration.

Flores stated that he never intended for Eley to dismiss the citation. He fully intended to attend court, but he never received anything in the mail indicating when or where he should go regarding the ticket.<sup>8</sup>

Sylvia Arredondo

Arredondo is the SFPD's supervising records keeper and is responsible for processing traffic citations for court. She indicated that once an officer has issued a traffic citation, there is a box in the dispatcher's office where the officer places the original citation and the yellow copy. Every morning, a records clerk collects and processes the citations. Once the clerk verifies that the information is correctly filled out on the citation, the clerk separates the original citations from the yellow copies. The yellow copies remain with SFPD records and the original citations are sent to the appropriate courthouse for processing.<sup>9</sup> The citations are generally sent to court within three to five days of being issued as the courts require the citations be submitted at least 30 days prior to the scheduled court date.<sup>10</sup>

If an officer makes a request to void a citation, the citation is stored in a separate folder and is not sent to the court for processing. If an officer wishes to void a citation that has already been submitted to the court, he must complete a Request for Dismissal form. The form must be signed by the Watch Commander, the Division Commander, and the Chief of Police before it is submitted to the court. Once submitted to the court, a judge must approve and sign the form.

On January 12, 2012, Eley approached her and asked about the proper procedures for dismissing a traffic citation. He stated that he had a citation that was to be "taken care of a while back" and it failed to get processed. Arredondo told him that he had to fill out a Request for Dismissal form. A short time later, Eley gave Arredondo a completed form

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<sup>8</sup> The court date, January 4, 2012, and the address of the Chatsworth courthouse are clearly noted on the citation itself. Infractions in San Fernando are heard at the Chatsworth court.

<sup>9</sup> Traffic violations which are infractions are heard at the Chatsworth courthouse while misdemeanor violations are heard at the San Fernando courthouse.

<sup>10</sup> Traffic citations have a court date approximately 45 days from the date of the ticket.



and the original citation for Flores which he had taken from Esquivel on November 23, 2011. Eley wrote the reason for the request for dismissal, "Their (sic) were conflicting statements made between the officer and the violator. Therefore, in the 'interest of justice' I (acting Chief J. Eley) am requesting that this citation be dismissed." Eley instructed Arredondo to process the citation by way of a dismissal and to take care of it right away.

The following morning, on January 13, 2012, Arredondo took the original citation and the Request for Dismissal form to the San Fernando Courthouse.<sup>11</sup> She presented them to an available magistrate, Los Angeles County Superior Court Commissioner Martin Gladstein.<sup>12</sup> Without any additional inquiry as to the reason for the dismissal request, Gladstein signed the form, dismissing the citation.<sup>13</sup> Arredondo went directly to the San Fernando Court Clerk's office and submitted the signed form along with the original citation for Flores.<sup>14</sup>

## LEGAL ANALYSIS

Vehicle Code section 40500(d) provides that if a person is arrested for a violation of the Vehicle Code and the arresting officer has prepared a written notice to appear in court and has delivered a copy to the arrested person, any peace officer who alters, conceals, modifies, nullifies, or destroys, or causes to be altered, concealed, modified, nullified, or destroyed, the face side of the remaining original or any copy of a citation that was retained by the officer, for any reason, before it is filed with the magistrate is guilty of a misdemeanor.

If, after an arrested person has signed and received a copy of a notice to appear, the arresting officer or other officer of the issuing agency determines that, in the interest of justice, the citation or notice should be dismissed, the arresting agency may recommend, in writing, to the magistrate or judge that the case be dismissed. The recommendation shall cite the reasons for the recommendation and be filed with the court. If the magistrate or judge makes a finding that there are grounds for dismissal, the finding shall be entered on the record and the infraction or misdemeanor dismissed. Under no

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<sup>11</sup> The original citation was never sent to the Chatsworth Courthouse prior to January 13, 2012.

<sup>12</sup> A magistrate in the San Fernando Courthouse may sign a Request for Dismissal for a traffic violation that was cited to the Chatsworth Courthouse.

<sup>13</sup> On February 29, 2012, Flores wrote a letter to San Fernando's City Treasurer, Margarita Solis. He stated that he "did not receive anything in the mail about the citation that noted the amount of the fine" that he owed. After he learned about the dismissal, he went to court to pay the fine, but they would not accept payment on a ticket that was no longer active in their system. Flores reiterated that he did not intend for the ticket to be dismissed and that he fully intended to pay the fine. He wrote, "Because the court cannot accept payment of a fine on a ticket that it has dismissed, I have enclosed a personal check to the general treasury of the City of San Fernando in the amount of \$250."

<sup>14</sup> SFPD Sergeant Castellon wrote a letter to the Chatsworth Court regarding the citation issued to Flores. In the letter, he alleges that Eley engaged in misconduct and violated the law by requesting a dismissal of this citation. He hand delivered the letter to the court on January 13, 2012. The letter was forwarded to the Supervision Judge of the North Valley District, the Honorable Charlaine Olmedo.



circumstances shall a personal relationship with any officer, public official, or law enforcement agency be grounds for dismissal. Vehicle Code section 40500(d).

According to the San Fernando Police Manual section 2-112.12(K), "All Cancellation of Citation Request must be initiated through completion of a "Citation Cancellation Request" form and requires approval by the Chief of Police through the Chain of Command." However, Sylvia Arredondo, the supervising records keeper at the SFPD, stated the procedure for dismissing a traffic citation was very relaxed at the time of the incident and only required any officer to request the citation be voided. The citation in question would be dropped into a separate folder with the other voided citations until it is stored away within the station.<sup>15</sup>

As acting police chief, Eley had the ultimate discretion to cancel citations at the SFPD. Though Eley may be in violation of Vehicle Code section 40500(d), he was acting under his authority as outlined by the SFPD manual. Additionally, Eley did not act for personal gain. There is no evidence that he received any personal favors or promises for canceling the citation. Furthermore, he ultimately requested the dismissal to be processed through the court system and the dismissal was signed by a neutral magistrate. Because police officers, in general, have great discretion as to whether or not they issue citations to traffic offenders, Eley's actions were de minimus in nature.

On January 20, 2012, Eley was relieved of duty and is no longer acting chief. He was placed on leave pending administrative review of this incident. We are closing our file and will take no further action in this matter.

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<sup>15</sup> A citation could be voided if it is incomplete, incorrectly filled out, or unsigned by the motorist.